

REMARKS

This Amendment is submitted simultaneously with filing of the above identified application.

In the Final Office Action, the Examiner rejected the claims under 35 U.S.C. 103(a) over the patent to Smith in view of the patent to Bennett.

Claim 1 was rejected under 35 U.S.C. 103(a) over the patent to Liebermann in view of the patent to Bennett.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) over the patents to Liebermann or Smith in view of the patent to Bennett and further in view of the patents to Hepp and Sanchez.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicant has amended claims 1 and 8, the broadest claims on file, so as to more clearly define the present invention and to distinguish it from the prior art.

It is respectfully submitted as defined in the claims, the flexible diaphragm is formed as a single uninterrupted flexible diaphragm which

extends transversely over a total cross-section of the case of the seismic sensor, and is provided with a single mass increasing element formed as a single lug having a transverse size which is significantly smaller than a transverse size of the single flexible diaphragm.

Turning now to the references and particularly to the patents to Smith and Lieberman, it is respectfully submitted, that as admitted by the Examiner, they do not teach a mass increasing element formed as a lug.

The patent to Bennett teaches a device which does not have a single moveable diaphragm or plate extending over the whole transverse cross-section of the case, but instead the movable parts in the patent to Bennett include a plurality of individual movable segments. The patent to Bennett does not disclose a mass increasing element formed as a single lug which is located in the center of the single diaphragm and has a transverse cross-section which is significantly smaller than the transverse direction of the single diaphragm. Instead, the patent to Bennett discloses a plurality of lugs placed on respective segments.

It is therefore believed to be clear that the new features of the present invention which are now defined in the independent claims are not disclosed in the patent to Bennett as well.

As for the Examiner's combination of the references applied against the claims, it is first respectfully submitted that it is not obvious to combine the patents to Smith and Lieberman with the patent to Bennett. The patents to Smith and Lieberman disclose movable plates, however they do not teach any lugs. The patent to Bennett teaches a plurality of fractured segments provided with a plurality of lugs. The constructions are so different that they can not be combined with one another. The only possibility is that the construction disclosed in the patent to Smith and Lieberman should be completely destroyed and replaced with the construction of Bennett. In other words, in the Smith and Lieberman devices the movable plates have to be broken into a plurality of pieces each provided with its own lug. However, this is not the applicant's invention.

It is therefore believed that the proposed combination proposed is not obvious and can not lead to the applicant's invention. In order to arrive at the applicant's invention from the references, the references have to be fundamentally modified, in particular by including into them the specific features of the present invention which are now defined in claims 1 and 8, in particular the single uninterrupted flexible diaphragm extending over the whole transverse cross-section and provided with the single lug with a transverse size substantially smaller than the transverse size of the single diaphragm. However, it is known that in order to arrive at a claimed

invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

In view of the above presented remarks and amendments, it is believed that claims 1 and 8 should be considered as patentably distinguishing over the art and should be allowed.

In connection with the Examiner's rejection of the claims under 35 U.S.C. 112, applicant has amended the specification as required by the Examiner by including the language which is clearly shown in the drawings, which drawings, in accordance with the rules, constitute a part of the original disclosure.

In view of the above presented remarks and amendments, it is believed that the present application should be allowed and such action is earnestly solicited.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

Extension Request

[Signature]
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*Please extend the term
by 2 months. Fee is enclosed.
If it is missing or non Recipient
please change to 26-0005*

[Signature]